

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

Powers Properties, LLC,)	
)	C/A No. 8:18-1265-TMC
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
Tyneisha Goston,)	
)	
Defendant.)	
)	

Plaintiff Powers Properties, LLC, (“Plaintiff”), filed an eviction action against Defendant Tyneisha Goston (“Defendant”) in the Anderson County Summary Court. Defendant, proceeding pro se, removed the action to this court. (ECF No. 1). In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02, D.S.C., this matter was referred to a magistrate judge for pretrial handling. Before the court is the magistrate judge’s Report and Recommendation (“Report”) recommending that this action be remanded to state court based upon lack of subject matter jurisdiction. (ECF No. 7). Defendant filed objections to the Report on May 29, 2018. (ECF No. 13).

The recommendation set forth in the Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Reports to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the magistrate judge, or recommit the matter with instructions. 28 U.S.C. § 636(b)(1). However, the court need not conduct a de novo review when

a party makes only “general and conclusory objections that do not direct the court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). In the absence of a timely filed, specific objection, the magistrate judge’s conclusions are reviewed only for clear error. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

Reviewing her objections, Plaintiff merely contends that the Report is unconstitutional with respect to the due process clause and the 7th Amendment and violates the Bill of Rights. Plaintiff does not address the Report’s discussion that this court lacks subject matter jurisdiction. The magistrate judge determined that the court does not have subject matter jurisdiction over this action as there is no federal question or diversity jurisdiction, and recommended that this action be remanded to the state magistrate court. The court agrees. The court is without subject matter jurisdiction, and this action must be remanded back to the state court.

Accordingly, the court adopts the magistrate judge’s Report (ECF No. 7). It is therefore **ORDERED** that this action be **REMANDED** to the Anderson County Summary Court.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

June 5, 2018
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.